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MORE CRIMINALS (ON THE STREET), LESS CRIME?

Debating the virtues of a less punitive agenda

By Julius (Jay) Wachtel. During the early 1970s New York's "Rockefeller laws" sought to quell rampant drug dealing and drug-related violence by imposing mandatory prison sentences on persons caught selling or possessing modest quantities of heroin, cocaine and other illegal drugs. In 2009 the state changed course. Many so-called "low-level" drug offenders – meaning possessors and dealers whose involvement was modest and who lacked a prior conviction for a violent crime – could escape incarceration by completing a course of treatment. Six years later the [Vera Institute announced](#) the outcome of a study that compared matched samples of offenders processed under both schemes. The results seemed encouraging. Fifty-four percent of those sentenced under the old, punitive Rockefeller laws were rearrested within two years of release or discharge, six percent for a violent offense. For those diverted to treatment under the new laws, the outcomes were thirty-six percent and three percent, respectively.

New York isn't alone. Last year [we blogged](#) about California's Proposition 47, which reduced penalties from felonies to misdemeanors for grand theft, shoplifting, receiving stolen property, writing bad checks, and check forgery when losses were under \$950. Possessing drugs also became a misdemeanor. A similar approach was adopted by the Feds. In 2014 the [U.S. Sentencing Commission](#) relaxed Federal drug sentencing guidelines, [enabling as many as 6,000 inmates](#) to seek immediate release, and up to 40,000 more in the not-so-distant future.

Financial pressures and prison crowding prompted states and the Federal government to ease up on punishment. Approaches include releasing prisoners, amending penal codes to reduce sentence length and downgrade some felonies to misdemeanors, and instituting or expanding the use of diversion and treatment.

That doesn't mean that offending is being completely forgiven. Misdemeanors are still crimes. But shifting away from imprisonment increased the burden on parole and probation offices and local lockups. These, in turn, [accommodated the influx](#) by freeing jail inmates and limiting the length and intensity of post-release supervision. Unlike penal revisions, though, tweaks pulled off at lower levels aren't necessarily enshrined in codebooks. There is no obvious cost, until there is. In a notorious 2013 example,

California authorities repeatedly reinstated a habitual parole violator until the man, a convicted sex offender, murdered a 76-year old woman and chopped up her body.

While the outcomes of going easy aren't always so stark, the consequences of the new normal may in time prove profound. "Now, you can get away with it" bragged a chronic offender, who [admitted he began stealing bicycles](#) when California raised the felony theft threshold to \$750. Even better, he could still use drugs because nothing happens when he fails to show up for drug rehab. L.A. County Sheriff Jim McDonnell said that's to be expected. "We've removed the disincentive, but we haven't created a meaningful incentive."

To help make their approach more palatable, advocates of leniency point to the crime drop that we've enjoyed since the madness of the eighties and early nineties. If crime is falling, why not experiment? However, as we mentioned in prior posts (click [here](#) and [here](#)), one likely reason for the "great crime drop" was that increased punishment deterred those who could be deterred while incapacitating the rest.

There are now disquieting signs that violence is again on the rise. As of August 2015, the murder rate in New York City was [nine percent higher](#) than at the same point in 2014. Dallas, Kansas City, Chicago and New Orleans have reported moderate upticks ranging from 17 to 22 percent, and substantial increases were recorded in Washington, D.C. (44 percent), Baltimore (56 percent), St. Louis (60 percent), and Milwaukee (76 percent). Property crime has also gone up in many areas; most recently, with "[double-digit](#)" [increases](#) in Los Angeles.

Some argue that the threat is overblown, as only drug possessors and other nonviolent offenders are in line for a break. First, as we pointed out in "[Rewarding the Naughty](#)," that's not necessarily true. As long as a California inmate's most recent offense didn't involve the use of significant force, those with past convictions short of murder are just as eligible for relief under the new laws as anyone else. What's more, the oft-repeated screed that a majority of inmates are there for drug possession doesn't hold up. According to the [Bureau of Justice Statistics](#), only 3.6 percent of state prisoners in 2013 were locked up for drug possession. Fifty-three percent were serving time for a violent crime and 10.5 percent for burglary. In 2014, 96.6 percent of [Federal drug convictions](#) were for drug trafficking, and only 0.9 percent for simple possession.

Secondly, and perhaps more importantly, citizens are far more concerned about the quantity of crime than the characteristics of its perpetrators. To claim that some offenders are somewhat less likely to be recidivists is little comfort when crime is on the rise. Still, this is not a call to "lock 'em up and throw away the key". Excessive

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punishment drains resources while consigning human beings – for that’s what convicted criminals are – to needlessly prolonged misery. Your writer would be delighted to arbitrarily halve or even quarter prison terms if adequate resources were provided to help former convicts successfully integrate into conventional society. Naturally, there would have to be vast improvements in the delivery of education, counseling, housing and job training services. To help former inmates become self-sufficient, it would probably be necessary to provide financial incentives to potential employers. But as we know from the [failed deinstitutionalization movement](#), which promised great savings and more humane outcomes by shifting the mentally ill from state sanatoria to community treatment, successful remedies are expensive. Instead of making the necessary investments, we transformed street cops into orderlies and city jails into mental wards.

Unless we dig deep into our pockets, these are precisely the results that we will get by deinstitutionalizing criminal offenders. Count on it!

UPDATES

12/3/25 [In 2022 Baltimore man Jason Billingsley gained early release](#) from a prison sentence for a 2013 rape. One year later he committed another rape, then murdered his victim. A few days later, Billingsley, who was employed as a maintenance worker for a local property management firm, used a ruse to enter one of their apartments. He raped the female tenant, assaulted her husband, then set both on fire. They sued Billingsley's employer for failing to check his background when he was hired. A civil jury agreed that the firm's hiring practices were indeed negligent. They just awarded the couple \$21.5 million. [Related post](#)

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1/25/23 More lethal gunplay rocked the nation. [Jarid Haddock, a 21-year old Yakima man](#), used a pistol to “randomly” shoot and kill three strangers in and near a convenience store on Tuesday. He later committed suicide. Haddock was once arrested for stealing a car. After some difficulties with drug use, he completed a diversion

program and charges were dismissed. And in Oakland, [gunfire erupted during the Monday evening filming of a music video](#) at a gas station. A hail of nineteen bullets left one person dead and four wounded. Gang rivalries are blamed, and so far no one has been arrested.

9/13/22 On Sept. 2 Memphis resident [Eliza Fletcher, 34](#), disappeared during a Friday morning jog. Video depicted a man forcing her into a truck, where a struggle apparently ensued. Cleotha Abston, 38, was arrested the next day. His DNA was matched to the victim's sandals, which were located near the crime scene. Fletcher's body was found two days later in a vacant apartment. Abston's criminal record dates back to the mid-90's. He was released in 2020 after serving two decades for armed kidnapping.

3/19/22 [Illinois' resentencing law](#) took effect January 1. It lets local prosecutors petition courts to resentence persons to lesser terms "if the original sentence no longer advances the interests of justice." Victims have an opportunity for input. Cook County (Chicago) D.A. Kim Foxx said she will soon "begin addressing the fact that many Black and brown people are still incarcerated today under failed policies of the past, even though they have been rehabilitated and pose little threat to public safety." Elderly inmates and those who served ten or more years come first; sex crimes and homicide seem to be out.

1/14/22 New, more permissive guidelines have made "thousands" of additional Federal inmates eligible for early release to supervision or home confinement. More than three-thousand were already released under the [2018 First Step Act](#), which confers 54 days of good-time credit for each year of a sentence imposed for a non-violent, non-gun related offense.

12/3/21 [Beverly Hills police arrested Aaeriel Maynor, 29](#), for the murder of a noted Beverly Hills philanthropist who was gunned down in her own home. Maynor, a convicted armed robber on parole, was captured after accidentally wounding himself with an AR-15 rifle while committing a burglary. On the same day, in Chicago, [a man out on bail for carjacking](#) and a second suspect were arrested after an officer was shot and wounded during a traffic stop. Blake Williams, 22, is being held on \$250,000 bond. Meanwhile, [LAPD chief Michel Moore](#) attributed the persistence of high-end retail thefts on a permissive pandemic-era policy that recently led to the release of fourteen smash-and-grabbers on low or no bail.

11/19/21 After "agonizing" a great deal, a Niagara County (NY) judge sentenced a 20-year old man to eight years probation for sexually attacking three 16-year old girls and a 15-year old in 2017-2018. These crimes took place in a bedroom of his wealthy parent's

home, which was known as a “party house” where well-to-do youngsters drank and did drugs. Families of the victims were appalled at the judge’s leniency, and particularly because the defendant had violated the terms of his prior release.

10/13/21 Calif. Governor Kevin Newsom signed a package of progressive sentencing bills. **SB81** directs judges to give “great weight” to mitigating factors and discourages using sentence enhancements. **SB483** abolishes using prior non-violent felony convictions to enhance sentences and orders the resentencing of persons previously affected. **AB333** imposes a heavy burden of proof when prosecuting persons for participating in criminal street gangs and when using gang membership to enhance sentences.

7/29/21 A five-year follow-up study of prisoners released in 2012 by 34 states revealed that within five years 71 percent were re-arrested and 46 percent were re-imprisoned for probation/parole violation or a new crime. Yearly arrest percentages ranged from 37 percent during the first year of freedom to 26 percent during the fifth.

5/25/21 In 2020 murders in L.A. surged 36 percent, reaching a decade-high 305. Police Chief Michel Moore attributes the spike to gang violence, the “despair and dislocation” of COVID, and the elimination of cash bail, which quickly put violent persons back on the streets: “When those gun arrests are not going to court...zero bail, court trials being deferred...there’s a sense [of] a lack of consequences.” Defunding the police has been replaced by a drive to replenish the ranks. Stop-and-frisk, once abandoned, is back in South L.A., where an elite unit is waging a targeted campaign.

5/23/21 Cook County (Chicago) has 1,544 persons awaiting trial for serious felonies at home. They’re wearing ankle bracelets. Ninety four face murder charges; 33, carjacking; 569, “aggravated unlawful use of a weapon.” And so forth. These numbers are vastly larger than pre-pandemic. According to Chief Judge Timothy Evans, who advocates criminal justice reforms, COVID forced an emptying of the jails. In any event, those released are not a threat and must be presumed innocent until proven otherwise.

1/29/21 Cook County (Chicago) prosecutors charged Daniel Regalado, 27 with reckless homicide after a Jan. 20 head-on crash that killed a 12-year old girl. Regalado’s blood-alcohol was six times over the limit. Regalado has been out on bond on three felony cases, including ex-con with a gun in 2019 and reckless discharge of a firearm in 2018. Citizens, community leaders and the Mayor of Oak Lawn accuse D.A. Kim Foxx “of being more concerned about criminals than innocent victims” and demand she resign.

11/22/20 In Sept. 2017 Chicago courts facilitated pre-trial release by eliminating or reducing bail. In six months 500 additional defendants were released (9,200 instead of 8,700). A study revealed that those released after the change were slightly more likely to FTA but equally likely to reoffend (17 percent) as those released under the old guidelines. Overall Chicago crime rates did not change.

1/31/19 In 1995, as part of deinstitutionalization, Oregon closed a state mental hospital, and its funding was supposed to go to local programs. According to a County official and E.R. doctor, it didn't happen. "People were let out of the institutions, but there wasn't anything to catch them."

6/14/18 A new study reports that Calif. Prop. 47 caused an increase in larceny, including thefts from motor vehicles, but did not affect other property or violent crimes. Recidivism decreased, but it is unknown whether that reflects the Proposition's effect on agency practices.

3/9/18 A forthcoming study in *Criminology & Public Policy* reports that California Prop. 47 did not cause a rise in crime. UC Irvine researchers compared California's pre-and-post Prop. 47 crime rates with states whose crime rates had long matched California's but did not have such a law.

2/21/17 Michael Mejia, 26, served three years in prison for robbery. He was then arrested for grand theft auto and served another two years. Mejia was then released - not on parole but, thanks to [Calif. AB 109](#), on probation. A string of violations repeatedly landed him in County Jail for brief periods. One week after his latest stint he gunned down his cousin, stole a car, then shot and killed veteran Whittier, Calif. police officer Keith Boyer and seriously wounded another officer.

12/3/16 In D.C. a "second chance" program allows violent young offenders under age 22 to draw short sentences, bypassing mandatory minimums. Instead of seizing on the opportunity to change their ways many of those released have promptly returned to a life of crime.

5/10/16 Eight persons were shot dead in Chicago and more than forty were wounded during the weekend of May 6-9. According to Chicago's new police chief, Eddie Johnson, most were violence-prone offenders. His remedy? Harsher sentencing. "Until we have real truth in sentencing and hold these offenders accountable, this will be the unfortunate reality in the city of Chicago," Johnson said.